

## **REMARKS**

### **Status of the Claims**

Claims 8-10, 12, 13, 19, 26, and 27 have been canceled without prejudice or disclaimer. Claims 1-7, 11, 14-18, and 20-24 have been amended. New claims 28-35 have been added. No new matter has been added. Claims 1-7, 11, 14-18, 20-25, and 28-35 are pending in the application.

### **Teleconference**

Assignee thanks Examiner Bezuayehu for the telephonic interview conducted on April 11, 2011, and for agreeing during the interview that the references cited in the Office Action do not disclose or suggest initiating an email message in response to determining that a recipient did not answer a call. Agreement was not reached regarding the availability of U.S. Patent Publication No. 2007/0127707 ("Koser '707") as a prior art reference in the 35 U.S.C. § 103(a) rejection of claim 3.

### **Claim Rejections - 35 U.S.C. § 112, Second Paragraph**

The Office has rejected claim 1, at paragraphs 2-3 of the Office Action, under 35 U.S.C. § 112, second paragraph. Assignee has amended claim 1 for clarification. Accordingly, Assignee respectfully requests withdrawal of the 35 U.S.C. § 112, second paragraph rejection.

### **Claims 1, 2, and 4 are Allowable**

The Office has rejected claims 1, 2, and 4, at paragraphs 4-6 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent Publication No. 2004/0225733 ("Tesink") in view U.S. Patent No. 7,499,5299 ("Kvache"). Assignee respectfully traverses the rejections.

Assignee thanks Examiner Bezuayehu for agreeing during the interview that the references cited in the Office Action do not disclose or suggest initiating an email message in response to determining that a recipient did not answer a call. Therefore, the references cited in the Office Action do not disclose or suggest in response to determining that a first recipient did not answer a first call, initiating an email message to an electronic mail address included in contact information associated with the first recipient, where the email message includes a

notification message, as in claim 1. Hence, claim 1 is allowable. Claims 2 and 4 are allowable, at least by virtue of their dependence from claim 1.

### **Claim 3 is Allowable**

The Office has rejected claim 3, at paragraph 7 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Tesink, in view of Kvache, and further in view of Koser '707. Assignee respectfully traverses the rejection.

Claim 3 depends from claim 1. Assignee thanks Examiner Bezuayehu for agreeing during the interview that the references cited in the Office Action do not disclose or suggest initiating an email message in response to determining that a recipient did not answer a call. Therefore, the references cited in the Office Action do not disclose or suggest in response to determining that a first recipient did not answer a first call, initiating an email message to an electronic mail address included in contact information associated with the first recipient, where the email message includes a notification message, as in claim 1. Hence, claim 3 is allowable, at least by virtue of its dependence from claim 1.

Further, Assignee submits that Koser '707 is disqualified as a prior art under 35 U.S.C. § 103(c) when asserted as a reference under 35 U.S.C. § 103(a). Koser '707 is a continuation of U.S. Patent No. 7,233,658 ("Koser '658") which has a filing date of August 13, 2002 and was published on February 6, 2004. Under 35 U.S.C. § 103(c), a reference that is only prior art under 35 U.S.C. § 102(e), (f), or (g), is subject to being disqualified if the reference and the application were commonly owned, or subject to an obligation of common assignment, at the time the invention was made. *See* MPEP § 706.02. In the present case, both Koser '658 and the instant application were subject to an obligation of common assignment to SBC Knowledge Ventures, L.P., at the time of the respective filing date of each of the applications. Accordingly, Assignee requests that the rejection of claim 3 under 35 U.S.C. § 103(a) be withdrawn.

### **Claims 5-7 are Allowable**

The Office has rejected claims 5-9, at paragraph 8 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Tesink, in view of Kvache, and further in view of U.S. Patent Publication No. 2004/0125931 ("Archer"). Claims 8 and 9 have been canceled without prejudice or disclaimer. Assignee respectfully traverses the remaining rejections.

Claims 5-7 depend from claim 1. Assignee thanks Examiner Bezuyayehu for agreeing during the interview that the references cited in the Office Action do not disclose or suggest initiating an email message in response to determining that a recipient did not answer a call. Therefore, the references cited in the Office Action do not disclose or suggest in response to determining that a first recipient did not answer a first call, initiating an email message to an electronic mail address included in contact information associated with the first recipient, where the email message includes a notification message, as in claim 1. Hence, claims 5-7 are allowable, at least by virtue of their dependence from claim 1.

#### **Claim 10**

The Office has rejected claim 10, at paragraph 9 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Tesink, in view of Kvache, and further in view of U.S. Patent Publication No. 2005/0135383 ("Shenefiel"). Claim 10 has been canceled without prejudice or disclaimer rendering the rejection moot.

#### **Claims 11, 14-18, and 20 are Allowable**

The Office has rejected claims 11 and 13-20, at paragraph 10 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Tesink, in view of Archer, and further in view U.S. Patent No. 6,792,094 ("Kirkpatrick"). Claims 13 and 19 have been canceled without prejudice or disclaimer. Assignee respectfully traverses the remaining rejections.

Assignee thanks Examiner Bezuyayehu for agreeing during the interview that the references cited in the Office Action do not disclose or suggest initiating an email message in response to determining that a recipient did not answer a call. Therefore, the references cited in the Office Action do not disclose or suggest an internet protocol multicast server operable to, when a first subscriber did not answer a voice over internet protocol call, initiate an email message to an electronic mail address, where the email message includes a first notification message, as in claim 11. Hence, claim 11 is allowable. Claims 14-18 and 20 are allowable, at least by virtue of their dependence from claim 11.

**Claim 12**

The Office has rejected claim 12, at paragraph 11 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Tesink, in view of Archer, in view of Kirkpatrick, and further in view of U.S. Patent Publication No. 2006/0098576 ("Brownrigg"). Claim 12 has been canceled without prejudice or disclaimer rendering the rejection moot.

**Claims 21-24 are Allowable**

The Office has rejected claims 21-24 and 26, at paragraph 12 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Tesink, in view of Kvache, and further in view of Archer. Claim 26 has been canceled without prejudice or disclaimer. Assignee respectfully traverses the remaining rejections.

Assignee thanks Examiner Bezuayehu for agreeing during the interview that the references cited in the Office Action do not disclose or suggest initiating an email message in response to determining that a recipient did not answer a call. Therefore, the references cited in the Office Action do not disclose or suggest when a first call is not answered, initiating an email message to an electronic mail address associated with the first recipient, where the email message includes a notification message, as in claim 21. Hence, claim 21 is allowable. Claims 22-24 are allowable, at least by virtue of their dependence from claim 21.

**Claim 25 is Allowable**

The Office has rejected claim 25, at paragraph 13 of the Office Action, under 35 U.S.C. § 103(a), as being unpatentable over Tesink, in view of Kvache, and in further view Archer. Additionally, in rejecting claim 25, the Office further relies on Shenefiel. Assignee respectfully traverses the rejection.

Claim 25 depends from claim 21. Assignee thanks Examiner Bezuayehu for agreeing during the interview that the references cited in the Office Action do not disclose or suggest initiating an email message in response to determining that a recipient did not answer a call. Therefore, the references cited in the Office Action do not disclose or suggest when a first call is not answered, initiating an email message to an electronic mail address associated with the first recipient, where the email message includes a notification message, as in claim 21. Hence, claim 25 is allowable, at least by virtue of its dependence from claim 21.

### **New Claims 28-35**

Claims 28-35 have been added and are supported by the specification. No new matter has been added.

#### Claims 28-34

Claims 28-34 depend from claim 1. Therefore, claims 28-34 are allowable at least by virtue of their dependence from an allowable claim.

Further, Assignee submits that the cited portions of the references cited in the Office Action do not disclose or suggest an indicator that includes a time period that a notification message is valid, as in claim 34. For at least this additional reason, claim 34 is allowable.

#### Claim 35

Claim 35 depends from claim 21. Therefore, claim 35 is allowable at least by virtue of its dependence from an allowable claim.

Further, Assignee submits that the cited portions of the references cited in the Office Action do not disclose or suggest that retrying a first recipient via a second voice over internet protocol telephone number occurs after expiration of a time interval subsequent to determining whether a first call is answered, where the time interval is randomly selected, as in claim 35. For at least this additional reason, claim 35 is allowable.

### **CONCLUSION**

Assignee respectfully requests reconsideration and withdrawal of each of the objections and rejections, as well as an indication of the allowability of each of the pending claims.

Any changes to the claims in this response that have not been specifically noted to overcome a rejection based upon the cited references should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

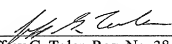
The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

Date

4-14-2011

  
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